

# EXHIBIT A

**From:** Taylor, Jarod G.  
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**Cc:** Scott Gant; Colleen Harrison; Sarah Jones  
**Subject:** RE: In re Pork MDL – Search Terms  
**Date:** Friday, November 19, 2021 6:00:02 PM  
**Attachments:** [image001.png](#)  
 AxinnLogo\_dd529d1a-7f78-430f-ab93-0b88b8611e63.png

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Mike:

We understand the MDL DAPs have agreed to the search terms related to the names of the MDL DAPs that Defendants proposed individually, as well as the terms listed in my November 5 email below (subject to each Defendant's right to individually suggest modifiers to account for burden specific to that Defendant). Defendants are conducting those searches and associated reviews; and certain Defendants will contact the MDL DAPs individually to discuss adjustments to specific, especially burdensome terms, such as where a Defendant has been asked to run the name of its own subsidiary as a search term.

While Defendants appreciate the MDL DAPs' attempt to compromise with regard to the remaining terms in dispute, the fact remains that DAPs still maintain their request for over 90 new search strings beyond those Defendants have already agreed upon in the spirit of compromise. Defendants do not believe that MDL DAPs have sufficiently justified those requests. Therefore, Defendants agree to Informal Dispute Resolution to address those remaining MDL DAP-proposed terms upon which agreement has not yet been reached subject to further Defendant-specific adjustments. Depending on when MDL DAPs file, Defendants might reach out regarding a brief extension for the opposition given the Thanksgiving holiday.

Best regards,  
 Jarod

**Jarod G. Taylor**

*Counsel*



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**Sent:** Friday, November 12, 2021 5:05 PM

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**Cc:** Scott Gant <sgant@bsfllp.com>; Colleen Harrison <CHarrison@BSFLLP.com>; Sarah Jones <sjones@BSFLLP.com>

**Subject:** RE: In re Pork MDL – Search Terms

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Jarod,

Thanks for your email.

Your email states that when Defendants argue “the burden for adding new search terms at this stage is high,” Defendants mean “the burden on MDL DAPs to justify new search terms after substantial completion of production, and when their allegations mirror those of the other plaintiffs.” The premise of Defendants’ position is “that new search terms that are not related to issues specific to any MDL DAP or to allegations specific to any MDL DAP’s complaint are not appropriate” because Defendants have already negotiated with the non-MDL Plaintiffs about search terms related to allegations common to both the non-MDL cases and the MDL cases. As we have stated previously, the MDL DAPs do not agree. The MDL DAPs should not be forced to accept search terms that were the result of negotiations in which the MDL DAPs had no opportunity to participate, and should not be precluded from offering search terms relevant to their allegations, even if those allegations are common to the claims of the non-MDL plaintiffs.

Moreover, any burden the MDL DAPs might have “to justify new search terms after [Defendants’] substantial completion of production” to the plaintiffs in the non-MDL cases does not negate Defendants’ obligation to substantiate Defendants’ claim that the “burden of MDL DAPs’ terms alone is also substantial.” The MDL DAPs cannot evaluate Defendants’ claim of burden without information sufficient to assess the volume of documents hit by each proposed term (such as a search term hit report). But Defendants have not provided any such information to the MDL DAPs. In light of Defendants’ failure to provide that information, Defendants’ burden objection remains without basis.

Nevertheless, the MDL DAPs have considered Defendants’ counterproposal, and re-reviewed our proposed list of terms. As indicated in the first attached spreadsheet, we have agreed to withdraw many terms in the spirit of compromise. The terms we have agreed to withdraw are highlighted in yellow. The second attached spreadsheet is a list of the terms with the withdrawn terms removed. The MDL DAPs believe the remaining terms are likely to result in highly relevant documents without imposing any undue burden on Defendants, particularly since the Defendants have already agreed to run at least some of them and will be reviewing and producing additional documents to the MDL DAPs. Note that for many of these terms, one or more Defendants agreed to use them in the non-MDL cases, and we are merely asking that certain other Defendants run the same terms as their co-Defendants.

As for the terms that Defendants have agreed to run—i.e., the terms listed in your email below, plus the terms related to the names of the MDL DAPs Defendants proposed individually—the MDL DAPs agree to them. Because there is no disagreement among the parties as to those terms, the

Defendants should apply those terms and produce responsive documents hit by them as soon as possible.

As for the rest of the terms, please confirm by Friday, November 19 that the Defendants will agree to use them. If not, please confirm that Defendants agree to resolve this dispute through the Informal Dispute Resolution process and the MDL DAPs will seek relief from the Court.

Thank you.

**Michael S. Mitchell**

Partner

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**Cc:** Scott Gant <sgant@bsfllp.com>; Colleen Harrison <CHarrison@BSFLLP.com>; Sarah Jones <sjones@BSFLLP.com>

**Subject:** RE: In re Pork MDL – Search Terms

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Mike:

In response to the broad set of additional search terms MDL DAPs requested, Defendants made a counterproposal—the “plaintiff-specific” terms you describe below. The only response Defendants received to that counterproposal was a request for clarification of the terms Defendants proposed to run and a request for an explanation for the additional limiters Defendants proposed for those terms, sent September 29. We never received confirmation that MDL DAPs agreed to those limiters. And of course MDL DAPs did not accept Defendants’ counterproposal in general, writing on October 15 that MDL DAPs did not agree that MDL DAPs should be limited to search terms negotiated by prior plaintiffs except for terms specific to MDL DAPs. For those reasons, you are correct that Defendants did not commence rolling productions on October 29, because the parties had not agreed on search terms.

As Defendants have stated from the beginning, Defendants disagree that MDL DAPs should be free to renegotiate search terms as a matter of course absent good cause. With respect to your statement that certain of the proposed terms relate to Defendants’ defenses, such as ASF, animal welfare, and feed prices, many Defendants have in fact already run terms related to those issues. Smithfield, for example, ran search strings relating to swine disease, including “African swine fever,” “ASF,” and “PeDV.”

When Defendants said that “the burden for adding new search terms at this stage is high,” we meant that the burden on MDL DAPs to justify new search terms after substantial completion of production, and when their allegations mirror those of the other plaintiffs, is high. Defendants have already produced millions of documents pursuant to negotiations with plaintiffs whose interests are aligned with MDL DAPs’; that burden must be considered when addressing MDL DAPs’ additional requests. The burden of MDL DAPs’ terms alone is also substantial. As just one example, MDL DAPs’ proposed search terms would require Smithfield to review over one million additional documents.

Defendants nevertheless offer the following further compromise in an attempt to resolve this issue. In addition to the counterproposal addressing search terms that appear tailored to specific MDL DAPs each Defendant has individually provided, each Defendant is willing to run the following search strings (while reserving their right to individually suggest modifiers to account for burden specific to particular Defendants), given MDL DAPs’

explanation for suggesting the terms provided below:

"African swine fever" OR "ASF" OR "porcine epidemic diarrhea virus" OR "PEDV" OR "PEDV" OR ((hog OR swine OR pig) /3 (flu OR fever OR virus OR disease))
(corn OR ethanol OR fuel! OR biofuel! OR bioenergy OR biodiesel) /25 (tax! /25 (break! OR deduct! OR credit! OR saving!)) % ("wheat report" OR "cheese market" OR "wheat prices" OR "cut corn" OR "green giant corn" OR "soybean oil" OR "corn meal" OR "whole kernel corn" OR "canned corn" OR "corn king" OR "corn beef" OR "soybean plastics" OR "flour facts" OR <a href="http://progressivebaker.com">!progressivebaker.com</a> OR "corn starch" OR "baby corn" OR "corn baby" OR "daily dairy report" OR "corn dog" OR "kettle corn" OR "pop corn" OR popcorn OR "whole kernel")
(corn /5 (price OR pricing)) % ("wheat report" OR "cheese market" OR "wheat prices" OR "cut corn" OR "green giant corn" OR "soybean oil" OR "corn meal" OR "whole kernel corn" OR "canned corn" OR "corn king" OR "corn beef" OR "soybean plastics" OR "flour facts" OR <a href="http://progressivebaker.com">!progressivebaker.com</a> OR "corn starch" OR "baby corn" OR "corn baby" OR "daily dairy report" OR "corn dog" OR "kettle corn" OR "pop corn" OR popcorn OR "whole kernel")

The terms relating to animal welfare are particularly burdensome for certain Defendants, and Defendants propose instead the following more limited terms, while Defendants would agree that MDL DAPs could run the same more limited set of terms over their own data:

(gestation w/3 crate\*) OR (sow w/3 "group housing")

Given the need for all parties to resolve this issue so Defendants can complete document productions, we request that the MDL DAPs provide confirmation by November 10 that we have agreement on the terms Defendants have proposed. Note that even then, each Defendant will be required to review different volumes of documents in response to these terms, and these productions therefore might not be complete by the first scheduled deposition. But Defendants want to be clear that we will offer each witness a single time, consistent with both the Federal Rules of Civil Procedure and the proposed Case Management Order.

Best regards,  
Jarod

**Jarod G. Taylor**  
*Counsel*



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**Subject:** RE: In re Pork MDL – Search Terms

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Jarod,

The parties have agreed to abide by the schedule in the proposed CMO submitted to the Court on



August 2, 2021. The proposed schedule set a deadline of October 29, 2021 for the “Commencement of Defendants’ Rolling Production of Documents responsive to plaintiff-specific and new search terms.” While the parties have agreed to continue discussions about search terms, we understand Defendants did agree to run at least some search terms related to the names of certain MDL DAPs, i.e., “plaintiff-specific” search terms. However, Defendants do not appear to have commenced on October 29 the rolling production of any documents responsive to those terms. Please confirm that Defendants did not make any such production last week. Assuming that’s correct, the MDL DAPs ask the Defendants to commence rolling productions immediately.

As you know, depositions are being scheduled for December. It is therefore imperative that Defendants produce the documents responsive to the search terms Defendants have already agreed to use, and that the MDL DAPs receive Defendants’ response to the additional search terms proposed by the MDL DAPs, which we have repeatedly requested and that you indicated in your October 22 email would be forthcoming. Defendants’ failure to produce documents responsive to the MDL DAPs’ search terms, including those terms that Defendants have already agreed to use, may prejudice our ability to adequately prepare for the upcoming depositions. Again, please tell us when we can expect a response from Defendants on the search terms proposed by the MDL DAPs so that we can either continue our negotiation, or raise any dispute(s) with the Court.

Thank you.

Mike

**Michael S. Mitchell**

Partner

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**From:** Michael Mitchell

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**Subject:** RE: In re Pork MDL – Search Terms

Jarod,

Please let us know when we can expect a response from Defendants.

Thanks, Mike

**Michael S. Mitchell**

Partner

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**Subject:** RE: In re Pork MDL – Search Terms

Jarod,

The MDL DAPs agree to continuing the negotiations beyond October 22 as you propose. We look forward to hearing further from Defendants.

Thanks, Mike

**Michael S. Mitchell**

Partner

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**From:** Taylor, Jarod G. <jtaylor@axinn.com>

**Sent:** Thursday, October 21, 2021 1:54 PM

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**Subject:** RE: In re Pork MDL – Search Terms

**CAUTION: External email. Please do not respond to or click on links/attachments unless you recognize the sender.**

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Mike:

Defendants are continuing to consider your email below, including whether Defendants might be able to propose a compromise. I do not mean to imply that we will certainly offer a compromise, but we are continuing to consider that in good faith and thus do not think the

contours of any impasse are concretely defined yet.

In light of that, and in light of the facts that we only recently received a response to search terms that Defendants proposed in July and continue to await additional promised information regarding multiple MDL DAPs' custodians and data sources, Defendants propose continuing negotiations on each of these issues beyond October 22 for all MDL DAPs. We propose continuing without setting another date now as long as both sides feel that further negotiations might be fruitful, with any party able to provide advance notice that it believes the parties are at impasse and then negotiate a briefing schedule.

Please let us know if MDL DAPs agree.

Thank you,  
Jarod

**Jarod G. Taylor**  
*Counsel*



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**Cc:** Scott Gant <[sgant@bsfillp.com](mailto:sgant@bsfillp.com)>; Colleen Harrison <[CHarrison@BSFLLP.com](mailto:CHarrison@BSFLLP.com)>; Sarah Jones  
<[sjones@BSFLLP.com](mailto:sjones@BSFLLP.com)>  
**Subject:** Re: In re Pork MDL – Search Terms

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Jarod,

We have not heard anything from Defendants. Please let us know when we can expect a response.

Thanks, Mike

**Michael S. Mitchell**

Partner

**BOIES SCHILLER**

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**Sent:** Friday, October 15, 2021 2:10:42 PM

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**Subject:** RE: In re Pork MDL – Search Terms

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Mike:

Thank you for your email. Defendants are considering it and will respond as soon as possible, but we do not think we will have a collective response by the end of the day. Given that the parties agreed to a deadline of next Friday to resolve or raise any issues with the Court, we do not believe this will present any problems.

Best regards,  
Jarod

**Jarod G. Taylor**  
*Counsel*



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**From:** Michael Mitchell <[mmitchell@bsfllp.com](mailto:mmitchell@bsfllp.com)>

**Sent:** Friday, October 15, 2021 7:37 AM

**To:** Taylor, Jarod G. <[jtaylor@axinn.com](mailto:jtaylor@axinn.com)>; [justin.bernick@hoganlovells.com](mailto:justin.bernick@hoganlovells.com);  
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**Subject:** RE: In re Pork MDL – Search Terms

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Jarod,

The MDL DAPs do not agree with Defendants' position that the MDL DAPs are limited to the terms Defendants negotiated with the non-MDL Plaintiffs in Case No. 18-cv-1776, except for those that relate specifically to issues unique to the MDL DAPs. All of the terms are relevant to MDL DAPs' claims, including those terms put forward by Defendants themselves in the search terms they proposed on MDL DAPs relating to defenses that Defendants may seek to assert in this case, including ASF, animal welfare, corn/feed prices. etc. The MDL DAPs do not believe they should be forced to accept search terms that resulted from negotiations in which they had no involvement, long before they even filed suit and long before the JPML created MDL 2998, particularly since Defendants have provided no specific relevance or burden objections to the terms proposed by the MDL DAPs.

Defendants have made no effort to substantiate their assertion that "the burden for adding new search terms at this stage is high." We have invited Defendants multiple times to provide a factual basis for their claim of burden, which they must do. Moreover, Defendants have already agreed to

run certain of the MDL DAPs' proposed terms (or some modification of them)—specifically those relating to the names of the MDL DAPs. Thus, Defendants have already agreed to running “new search terms at this stage” for the purpose of searching and reviewing additional documents. Whatever additional burden there might be from having to use the additional terms requested by the MDL DAPs, clearly relevant to this case, Defendants have not provided any factual basis for it. Even if Defendants could substantiate that burden, the MDL DAPs are willing to have the Defendants produce whatever documents might be hit by those terms, subject to any privilege screen or review the Defendants might want to apply before doing so and the robust clawback provisions of the Protective Order in this case. ECF No. 18 at 18-21.

If you would like to discuss further, please identify times on Monday, October 18 or Tuesday, October 19. If not, please confirm by 5pm Central today that Defendants agree the parties are at an impasse, and whether Defendants agree to use the IDR process to resolve this dispute. Thank you.

Best, Mike

**Michael S. Mitchell**

Partner

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**From:** Taylor, Jarod G. <[jtaylor@axinn.com](mailto:jtaylor@axinn.com)>

**Sent:** Thursday, October 14, 2021 2:38 PM

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**Subject:** RE: In re Pork MDL – Search Terms

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Mike:

I write on behalf of Defendants in response to your email below, and further to the parties' agreement to extend the deadline to raise disputes regarding search terms to October 22. Defendants do not believe that MDL DAPs have yet articulated why additional search terms are appropriate if the terms are relevant (if at all) only to allegations that MDL DAPs share with Class Plaintiffs and the Winn-Dixie Plaintiffs. Nor have MDL DAPs explained how any search string not included in Defendants' counterproposals is in fact tailored to any issue unique to MDL DAPs.

Given that Defendants have substantially completed document production, and for the reasons raised in further detail in the email chain below, Defendants believe the burden for adding new search terms at this stage is high when the new terms relate only to allegations that have been at issue since the class actions were first filed. The explanations in MDL DAPs' spreadsheet do not meet that burden because they explain only what the search terms mean (e.g., that a term is the name of or acronym for a trade association), rather than why the term is relevant to an issue unique to MDL DAPs or why there is otherwise good cause for adding them.

Defendants remain available to discuss these issues (as well as the DAP-specific search terms included in Defendants' counterproposal), including by making ourselves available to meet and confer telephonically.

Best regards,  
Jarod

**Jarod G. Taylor**

*Counsel*



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**From:** Michael Mitchell <[mmitchell@bsfllp.com](mailto:mmitchell@bsfllp.com)>

**Sent:** Wednesday, October 6, 2021 8:18 AM

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**Subject:** RE: In re Pork MDL – Search Terms

**Caution: External Email**

Counsel,

The MDL DAPs intend to submit to the Court by the end of this week the parties' dispute about the search terms proposed by the MDL DAPs to Defendants. We understand the parties to be at an impasse. However, if you believe we misunderstand that, and Defendants are willing to meet and confer to discuss a compromise, please let us know, in which case we will also need to discuss extending the agreed-upon October 8 "deadline" in the proposed CMO with respect to the presentation of search term disputes to the Court.

Unless Defendants would like to continue to meet and confer, the MDL DAPs propose to submit this dispute to the Court using the Informal Dispute Resolution Process (IDR), as explained in the parties' proposed CMO submitted to the Court on August 2, 2021. Do Defendants agree to use the IDR process to resolve this dispute?

Thank you.

**Michael S. Mitchell**

Partner

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**Subject:** RE: In re Pork MDL – Search Terms

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Mike:

Defendants have not refused to provide particularized objections to the additional search terms proposed by MDL DAPs. Defendants have provided counterproposals for the search terms that are arguably unique to MDL DAPs (e.g., the names of specific MDL DAPs). Defendants object to each other proposed additional term on the ground that those terms are not tailored to issues unique to MDL DAPs, but are instead relevant (if at all) to allegations that MDL DAPs share with Class Plaintiffs and/or the Winn-Dixie Plaintiffs. Defendants have already negotiated search terms relating to those allegations, and we object to undertaking the extreme burden and disruption to the Court's scheduling order entailed in restarting document reviews and productions at this stage of the litigation.

Defendants reserve other objections to those terms, such as relevance and responsiveness, burden, and proportionality, but whether Defendants must renegotiate any terms that relate solely to topics not unique to MDL DAPs is a threshold issue.

Defendants have been clear that we will consider explanations for why additional search terms are in fact tailored to issues specific to MDL DAPs. But the bases provided in MDL DAPs' latest spreadsheet do not do that. For example, MDL DAPs propose the first search term, "Hatfield," because it is a Clemens subsidiary, and MDL DAPs argue that this therefore relates to communications between Defendants. MDL DAPs make no attempt to

argue how this issue is unique to MDL DAPs, however, because it is not. They in fact acknowledge in the spreadsheet that Class Plaintiffs first proposed this term. At the time that this and other terms were first proposed, agreements were struck by each Defendant to appropriately tailor overbroad or burdensome terms based on each Defendant's unique situation. It is not necessary or reasonable for Defendants to separately rehash these negotiations with the MDL DAPs.

With respect to Tyson's counterproposals, you are correct that Tyson proposes to use the terms numbered 122-47 but with the limiters you describe. We propose those limiters based on the original proposed terms' lack of relevance, overbreadth, and lack of proportionality. For example, not every document relating to "Subway" or "Sysco" is relevant. Tyson therefore proposes instead to review documents containing those terms *and* terms related to the subject-matter of this action—*i.e.*, hogs and pork products—consistent with the case law. Clemens and Hormel will respond separately to your questions regarding their proposals.

Best regards,  
Jarod

**Jarod G. Taylor**  
*Counsel*



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**Subject:** RE: In re Pork MDL – Search Terms

### **Caution: External Email**

Counsel,

In light of Defendants' refusal to provide any particularized objections to the search terms proposed by the MDL DAPs, attached is a revised spreadsheet listing the terms proposed by the MDL DAPs and the basis for them. Any changes to the terms originally proposed by the MDL DAPs on September 1 are indicated in red. All of the MDL DAPs' proposed terms are "related to issues specific to an[] MDL DAP or to allegations specific to an[] MDL DAP's complaint," and are therefore appropriate. If upon Defendants' review of the attached spreadsheet Defendants can articulate some basis for refusing to accept them, we are prepared to meet and confer about that provided Defendants state their specific objections for each term in Column F of the attached spreadsheet.

Please note that the spreadsheet still includes the "MDL DAP specific terms" that at least Hormel, Tyson, Clemens, Smithfield, and JBS have proposed to use some version of. We do not believe we have received counterproposals from the remaining Defendants at this point, but please let us know if that is incorrect. The MDL DAPs are reviewing the counterproposals recently received from Smithfield and JBS. With respect to the counterproposals received from Tyson, Hormel and Clemens, we note and request the following:

- Clemens appears to have agreed to the terms numbered 122-147 in the attached spreadsheet without any edits. Please confirm.
- Hormel appears to propose to use the terms numbered 122-147 in the spreadsheet but with the following "limiter" for each (and run against only emails plus attachments)): "NEAR30



(pig\* OR hog\* OR swine OR pork\* OR porcine OR bacon\* OR sausage OR ham OR shoulder OR loin\* OR hock\* OR rib\* OR bellies OR belly)". Please explain the basis for the limiter.

- Tyson appears to propose to use the terms numbered 122-147 in the spreadsheet but with the following limiter for each (and run against only emails plus attachments): "AND (pig\* OR hog\* OR swine OR pork\* OR porcine OR bacon\* OR sausage OR ham OR shoulder OR loin\* OR hock\* OR rib\* OR bellies OR belly)." Please explain the basis for the limiter.

Thank you.

## Michael S. Mitchell

Partner

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Mike:

Defendants disagree that reformatting our objection in the way you have asked is necessary for our meet and confer to be productive. We have clearly stated our objection to the set of terms MDL DAPs have proposed: new search terms that are not related to issues specific to any MDL DAP or to allegations specific to any MDL DAP's complaint are not appropriate. Defendants have or will provide counterproposals for proposed search terms that appear tailored to specific MDL DAPs, accounting for breadth and proportionality concerns. Negotiations over those Defendant-specific proposals should take place individually, not globally. If MDL DAPs explain how additional, specific search terms they have proposed are in fact tailored to issues specific to MDL DAPs, we will of course consider that.

Defendants are available to meet and confer between 2:30-4 ET on Monday, and from 3-4 ET on Tuesday. With respect to your question regarding the timing of counterproposals from the remaining Defendants, Defendants are all situated differently with respect to data sources and search terms, so I cannot respond on behalf of all Defendants. But all Defendants are copied on this chain and are aware of the commitment to provide counterproposals.

Jarod

**Jarod G. Taylor**

*Counsel*



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**From:** Michael Mitchell <[mmitchell@bsfllp.com](mailto:mmitchell@bsfllp.com)>

**Sent:** Friday, September 24, 2021 2:50 PM

**To:** Taylor, Jarod G. <[jtaylor@axinn.com](mailto:jtaylor@axinn.com)>; [justin.bernick@hoganlovells.com](mailto:justin.bernick@hoganlovells.com); [william.monts@hoganlovells.com](mailto:william.monts@hoganlovells.com); [peter.walsh@hoganlovells.com](mailto:peter.walsh@hoganlovells.com); [liam.phibbs@hoganlovells.com](mailto:liam.phibbs@hoganlovells.com); [olga.fleysh@hoganlovells.com](mailto:olga.fleysh@hoganlovells.com); [holden.steinhauer@hoganlovells.com](mailto:holden.steinhauer@hoganlovells.com); [dlaytin@kirkland.com](mailto:dlaytin@kirkland.com); [ccottrell@kirkland.com](mailto:ccottrell@kirkland.com); [christina.sharkey@kirkland.com](mailto:christina.sharkey@kirkland.com); [adam.collins@kirkland.com](mailto:adam.collins@kirkland.com); [mjohnson@greeneespel.com](mailto:mjohnson@greeneespel.com); [nicholas.ruge@kirkland.com](mailto:nicholas.ruge@kirkland.com); [amarto.bhattacharyya@kirkland.com](mailto:amarto.bhattacharyya@kirkland.com); [vanessa.barsanti@kirkland.com](mailto:vanessa.barsanti@kirkland.com); [max.samels@kirkland.com](mailto:max.samels@kirkland.com); [jenna.stupar@kirkland.com](mailto:jenna.stupar@kirkland.com); [Richard.Duncan@FaegreDrinker.com](mailto:Richard.Duncan@FaegreDrinker.com); [Craig.Coleman@FaegreDrinker.com](mailto:Craig.Coleman@FaegreDrinker.com); [Emily.Chow@FaegreDrinker.com](mailto:Emily.Chow@FaegreDrinker.com); [Isaac.Hall@FaegreDrinker.com](mailto:Isaac.Hall@FaegreDrinker.com); [Stephanie.Koltookian@FaegreDrinker.com](mailto:Stephanie.Koltookian@FaegreDrinker.com); [stephenneuwirth@quinnemanuel.com](mailto:stephenneuwirth@quinnemanuel.com); [michaelcarlinsky@quinnemanuel.com](mailto:michaelcarlinsky@quinnemanuel.com); [samirashid@quinnemanuel.com](mailto:samirashid@quinnemanuel.com); [richardvagas@quinnemanuel.com](mailto:richardvagas@quinnemanuel.com); [bobbyvance@quinnemanuel.com](mailto:bobbyvance@quinnemanuel.com); [davidadler@quinnemanuel.com](mailto:davidadler@quinnemanuel.com); [anaiberland@quinnemanuel.com](mailto:anaiberland@quinnemanuel.com); [allison.silber@quinnemanuel.com](mailto:allison.silber@quinnemanuel.com); [andrewmollard@quinnemanuel.com](mailto:andrewmollard@quinnemanuel.com); [michaelguerrero@quinnemanuel.com](mailto:michaelguerrero@quinnemanuel.com); [dheeman@spencerfane.com](mailto:dheeman@spencerfane.com); [jnelson@spencerfane.com](mailto:jnelson@spencerfane.com); [rwinter@spencerfane.com](mailto:rwinter@spencerfane.com); [amclintic@spencerfane.com](mailto:amclintic@spencerfane.com); [william.greene@stinson.com](mailto:william.greene@stinson.com); [nicci.warr@stinson.com](mailto:nicci.warr@stinson.com); [peter.schwinger@stinson.com](mailto:peter.schwinger@stinson.com); [zachary.hemenway@stinson.com](mailto:zachary.hemenway@stinson.com); [william.thomson@stinson.com](mailto:william.thomson@stinson.com); [courtney.harrison@stinson.com](mailto:courtney.harrison@stinson.com); [rparker@gibsondunn.com](mailto:rparker@gibsondunn.com); [jlipton@gibsondunn.com](mailto:jlipton@gibsondunn.com); [brobison@gibsondunn.com](mailto:brobison@gibsondunn.com); [rrobertson@gibsondunn.com](mailto:rrobertson@gibsondunn.com); [spearl@gibsondunn.com](mailto:spearl@gibsondunn.com); [PPatel@gibsondunn.com](mailto:PPatel@gibsondunn.com); [jcotter@larkinhoffman.com](mailto:jcotter@larkinhoffman.com); [jkvinge@larkinhoffman.com](mailto:jkvinge@larkinhoffman.com); [cfitzgerald@gibsondunn.com](mailto:cfitzgerald@gibsondunn.com); [rstone@gibsondunn.com](mailto:rstone@gibsondunn.com); [myu@gibsondunn.com](mailto:myu@gibsondunn.com); [aaron.chapin@huschblackwell.com](mailto:aaron.chapin@huschblackwell.com); [gene.summerlin@huschblackwell.com](mailto:gene.summerlin@huschblackwell.com); [marnie.jensen@huschblackwell.com](mailto:marnie.jensen@huschblackwell.com); [ryann.glenn@huschblackwell.com](mailto:ryann.glenn@huschblackwell.com); [kamron.hasan@huschblackwell.com](mailto:kamron.hasan@huschblackwell.com); [sierra.faler@huschblackwell.com](mailto:sierra.faler@huschblackwell.com); [Tessa.Jacob@huschblackwell.com](mailto:Tessa.Jacob@huschblackwell.com); [Chris.Smith@huschblackwell.com](mailto:Chris.Smith@huschblackwell.com); [LegalSupportTeam-Law-OMA@huschblackwell.com](mailto:LegalSupportTeam-Law-OMA@huschblackwell.com); Adcox, Rachel J <[radcox@axinn.com](mailto:radcox@axinn.com)>; Rider, Tiffany <[trider@axinn.com](mailto:trider@axinn.com)>; Strang, Lindsey <[lstrang@axinn.com](mailto:lstrang@axinn.com)>; Oppenheimer, Brooke J. <[boppenheimer@axinn.com](mailto:boppenheimer@axinn.com)>; [DGraham@dykema.com](mailto:DGraham@dykema.com); Boxbaum, Brandon <[bboxbaum@axinn.com](mailto:bboxbaum@axinn.com)>; Greathouse, Madeline A. <[mgreathouse@axinn.com](mailto:mgreathouse@axinn.com)>; Holleran, Keith J. <[kholleran@axinn.com](mailto:kholleran@axinn.com)>

**Cc:** Scott Gant <[sgant@bsfllp.com](mailto:sgant@bsfllp.com)>; Colleen Harrison <[CHarrison@BSFLLP.com](mailto:CHarrison@BSFLLP.com)>; Sarah Jones <[sjones@BSFLLP.com](mailto:sjones@BSFLLP.com)>

**Subject:** RE: In re Pork MDL – Search Terms

### **Caution: External Email**

Jarod,

In advance of the meet and confer we have requested to discuss Defendants' rejection of the MDL DAP's proposed search terms, we ask that Defendants please identify briefly Defendants' specific objections to each term and the basis for them. We have added to the attached spreadsheet

containing the proposed terms a column for Defendants to do so. The MDL DAPs believe this information is necessary for any meet and confer to be productive.

Thank you.

**Michael S. Mitchell**

Partner

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**From:** Michael Mitchell

**Sent:** Thursday, September 23, 2021 5:02 PM

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**Subject:** RE: In re Pork MDL – Search Terms

Jarod,

On behalf of the MDL DAPs, I write to request a meet and confer to discuss Defendants' rejection of the MDL DAPs' proposed search terms. Please let us know your availability Monday or Tuesday next week.

Also, in your email below, you state that "Each Defendant will write separately to propose search strings designed to capture such materials based on the search terms MDL DAPs provided." We have received counterproposals from only Tyson and Hormel. When will the other Defendants provide their counterproposals?

Thank you,

Mike

**Michael S. Mitchell**

Partner

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**From:** Taylor, Jarod G. <[jtaylor@axinn.com](mailto:jtaylor@axinn.com)>

**Sent:** Monday, September 20, 2021 9:49 AM

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**Subject:** RE: In re Pork MDL – Search Terms

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Counsel:

We write on behalf of Defendants in response to the additional search terms you propose below. The additional search terms proposed by MDL DAPs contain dozens of search strings that do not appear to be related to issues specific to any MDL DAP, nor to any allegation specific to any MDL DAP's complaint. Given that MDL DAPs' allegations largely mirror those of plaintiffs in the consolidated action, and that re-negotiation of search terms with each new DAP would result in unnecessary inefficiency and delay, Defendants do not believe that a renegotiation of search terms absent some specific good cause is warranted.

The search terms each Defendant agreed to with the existing plaintiffs were the result of months of hard-fought negotiations between the parties. Additionally, on the basis of their review of thousands of documents produced by Defendants, the class plaintiffs proposed dozens of additional search terms, which resulted in further negotiations, recently culminating in agreements by certain Defendants to run additional search terms. While certain of those negotiations remain ongoing, each Defendant will provide the supplemental terms to MDL DAPs once they are finalized.

We believe these existing terms are sufficient to meet the needs of the MDL DAPs. That said, in the interest of compromise, Defendants are willing to test and consider additional search terms narrowly tailored to identify DAP-specific responsive materials that MDL DAPs have a good faith basis to believe would not have been adequately captured by any of the hundreds of preexisting search terms. Each Defendant will write separately to propose search strings designed to capture such materials based on the search terms MDL DAPs provided.

Please let us know if you would like to discuss.

Best regards,  
Jarod

**Jarod G. Taylor**

*Counsel*



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**From:** Michael Mitchell <[mmitchell@bsfllp.com](mailto:mmitchell@bsfllp.com)>

**Sent:** Wednesday, September 1, 2021 7:04 PM

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**Cc:** PorkMDLDAPs <PORKMDLDAPS@LIST.CARLTONFIELDS.COM>

**Subject:** In re Pork MDL – Search Terms

### **Caution: External Email**

Counsel for Defendants,

Attached please find the MDL DAPs' proposals regarding "plaintiff-specific and new proposed search terms to Defendants." The MDL DAPs provide these terms to Defendants pursuant to the proposed agreed-upon schedule submitted to the Court on August 2, 2021 (the "Proposed MDL CMO"), despite that schedule having not yet been entered by the Court. The attached proposed search terms are informed by the correspondence and other materials received from each Defendant to date purporting to set forth "the search terms Defendants have already used to search for responsive documents . . . in the *Pre-Existing Non-MDL Cases*," as set forth in the Proposed MDL CMO. However, based on our review of the materials provided by Defendants to date, we understand that for at least some Defendants, the materials sent to the MDL DAPs may not reflect the final set of search terms a particular Defendant agreed to use to search for responsive documents or text messages in the *Pre-Existing Non-MDL Cases*. As such, the MDL DAPs reserve their rights to propose additional search terms to Defendants subject to their review of any final or supplemental agreement regarding search terms a Defendant may have reached with plaintiffs in the *Pre-Existing Non-MDL Cases*.

Please confirm that Defendants agree to use these terms to search for responsive documents, or if you would like to discuss them.

Thank you.

**Michael S. Mitchell**

Partner

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